

(iii) New information reveals effects of the action that may affect eagles in a manner or to an extent not previously considered, and requires modification of the terms and conditions to ensure the preservation of the bald eagle or the golden eagle; or

(iv) The activity will be modified by the permittee in a manner that causes effects to eagles that were not previously considered and which requires modification of the terms and conditions in the incidental take statement in order to ensure the preservation of the bald eagle or the golden eagle.

(2) During any period when the eagles covered by your incidental take statement are listed under the ESA, you must comply with the terms and conditions of both the incidental take statement and the permit issued under this section.

(d) *Permit duration.* The permit will be valid until the action that will take eagles, as described in the incidental take statement or modified to condition the permit issued under this section, is completed, as long as the permittee complies with the terms and conditions of the permit, including any modified terms and conditions.

(e) *Applying for an eagle take permit.*

(1) Your application must consist of a copy of the applicable section 7 incidental take statement issued pursuant to the Endangered Species Act (ESA), and a signed certification that you are in full compliance with all terms and conditions of the ESA incidental take statement.

(2) If you request reevaluation of the terms and conditions required under your previously granted ESA incidental take statement for eagles, you must include a description of the modifications you request, and an explanation for why you believe the original conditions or measures are not reasonably justified to offset the detrimental impact of the permitted activity on eagles.

(3) Send completed permit applications to the Regional Director of the Region in which the disturbance would occur—Attention: Migratory Bird Permit Office. You can find the current ad-

resses for the Regional Directors in § 2.2 of subchapter A of this chapter.

[73 FR 29083, May 20, 2008; 74 FR 46879, Sept. 11, 2009]

### **Subpart D—Depredation Control Orders on Golden Eagles**

#### **§ 22.31 Golden eagle depredations control order on request of Governor of a State.**

(a) Whenever the Governor of any State requests permission to take golden eagles to seasonally protect domesticated flocks and herds in such State, the Director shall make an investigation and if he determines that such taking is necessary to and will seasonally protect domesticated flocks and herds in such States he shall authorize such taking in whatever part or parts of the State and for such periods as he determines necessary to protect such interests.

(b) Requests from the Governor of a State to take golden eagles to seasonally protect domesticated flocks and herds must be submitted in writing to the Director listing the periods of time during which the taking of such birds is recommended, and including a map of the State indicating the boundaries of the proposed area of taking. Such requests should include a statement of the facts and the source of such facts that in the Governor's opinion justifies the request. After a decision by the Director, the Governor will be advised in writing concerning the request and a notice will be published in the FEDERAL REGISTER.

#### **§ 22.32 Conditions and limitations on taking under depredation control order.**

(a) Whenever the taking of golden eagles without a permit is authorized for the seasonal protection of livestock, such birds may be taken by firearms, traps, or other suitable means except by poison or from aircraft.

(b) Any person exercising any of the privileges granted by this subpart D must permit all reasonable times, including during actual operations, any Service agent, or other game law enforcement officer free and unrestricted access over the premises on which such